

**MINUTES OF THE MEETING OF THE MIDLAND CITY PLANNING  
COMMISSION  
WHICH TOOK PLACE ON TUESDAY,  
SEPTEMBER 14, 2010, 7:00 P.M.,  
COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN**

**1. Roll Call**

**PRESENT:** Ballard, Brown, Hanna, King, Mead, Pnacek, Senesac and Stewart

**ABSENT:** Young (Mr. Young arrived at 7:10 p.m.)

**OTHERS PRESENT:** Keith Baker, Planning Director, Cheri King, Community Development Specialist, Jerry Ladwig, Police Chief, and 14 others.

**2. Approval of Minutes**

Moved by Hanna, seconded by Ballard, to approve the minutes of the regular meeting of July 27, 2010 as written. Motion passed unanimously.

Moved by Mead, seconded by Hanna, to approve the minutes of the special meeting of August 24, 2010 as written. Motion passed unanimously.

**3. Public Hearings**

- a. Site Plan No. 296 from Gloried Homes on behalf of Dr. McLaren** for site plan review and approval for a 2,331 square foot expansion of an existing dentist office located at 308 Northgate Drive on .7 acres.

Mr. Baker showed the aerial photograph of the subject property. It is located occupying two lots, as proposed, on the north side of Northgate, between Wackerly Street and Jefferson. It is close to the 555 Medical Office Building. The property is zoned Office Service. Medical and dental offices are permitted by right. The property is surrounded by Office Service on three sides and by RA-4 on the south side of Northgate. There are at least two different duplexes under construction and several new home starts in this area. The Wackerly Square project, to the north, is also under construction.

The addition is a proposed 2,331 square foot addition to an existing dental office. There are several criteria which are reviewed prior to the approval of a site plan. The proposed project does not impede potential development on adjoining properties. This particular project takes into consideration a significant amount of landscaping and an increase in the size of the parking lot. The project meets all setbacks for the Office Service zoning classification. There are really no changes to the property as the proposed property for expansion was previously grassy lawn. Emergency vehicle access has been reviewed by the city's Fire Department. The proposed developers have requested an additional driveway approach. There will be a one-way in and allow parking in the new parking lot. Vehicles would then circulate to the other side of the driveway and exit through the west driveway, as a one-way out. They do provide for adequate space for Dial-A-Ride and Fire Department access to the site. Pedestrian

circulation will utilize the existing sidewalk along the building and sidewalks will have to be installed along the driveways. Thirty-two parking stalls are proposed. They have submitted a storm water management plan to the city's Engineering Department. The petitioner has provided a photometric plan for the building. The only new lighting proposed will be mounted on the building. Utilities will be served from the existing building. There will just be a new connection for storm water. There is a new dumpster location which is shown as being screened. No health or safety concerns were noted on the site plan. This project will be built in a single phase. There will be no additional signage. Staff feels approval of the site plan is warranted. This is the public hearing, or the first hearing for this site plan. Deliberation and action is anticipated to occur at the next Planning Commission meeting September 28, 2010.

There have been no public comments received regarding this site plan. Mrs. Hanna asked if there has been any consideration given to using pervious surfaces for the parking lot. Mr. Baker asked her to defer that question to the petitioner. Mr. Senesac asked that, if the new driveway was not there, what did Mr. Baker think Dial-A-Ride and the city's Fire Department would say? Mr. Baker stated that one driveway is allowed, but two can be permitted by the Planning Commission subject to conditions. One of those conditions was that they be a one-way in and a one-way out. Mr. Senesac asked Mr. Baker to talk to the Fire Department about how they would feel if there was only one driveway. Mr. Baker stated there would be room on the site to turn around and exit through the single drive approach but that he would seek confirmation from the Fire Department.

John McLaren, 2515 Hearthstone Circle, Midland is the owner of the property. Jim Cline, 4552 Vail Court, Auburn, is the designer of the new site. Mr. Cline stated that, if there is some reason they cannot accommodate all the storm water on site, they would consider the use of pervious pavers on the site. The whole idea of having the two driveways was to provide the opportunity to drop patients off. They would also lose a significant amount of parking if the second drive is prohibited. Delivery vehicles would also have to back up in the parking lot to turn around if the second drive is prohibited. Mr. Pnacek asked if there was room under the canopy for more than one vehicle movement. Mr. Cline stated that there was only room for one vehicle and any oncoming vehicles would have to wait.

There were no public comments either in favor of or in opposition to this petition. The public hearing was closed.

- b. Zoning Petition No. 572, initiated by Schauman Development on behalf of Timothy Pomranky, to rezone property at 4517 and 4521 Dublin Avenue from Industrial A zoning to Residential B zoning.**

Mr. Baker showed an aerial photograph of the subject property. It is located to the west of Dublin and south of Saginaw Road. The Pere Marquette Rail-Trail abuts this site. The Trailside Senior Center is across Dublin to the east of this site. The property in question is on the south side of the Pere Marquette Rail-Trail right-of-way. The property encompasses just over 13 acres. Properties to the west and south are predominantly vacant. The large parcel in this petition was formerly an auto-parts yard,

which has been cleaned up. It is essentially vacant at this time. The property is currently zoned Industrial A, as is the remaining triangular piece to the north. The property to the south is zoned LCMR. Homer Township is located west of the site. Property to the south becomes residential. Further down Dublin you have the three Countryside Estates residential subdivisions. There is Northwood University's wooded property to the east across Dublin from the site.

The future land use map for this area shows it classified as appropriate for medium density residential. Is the proposed amendment consistent with the city's Master Plan? The Future Land Use map of the city's Master Plan identifies this property as medium density residential. Medium density residential is defined in the Master Plan as housing that has three or more dwelling units per structure and does not exceed nine dwelling units per acre. Have conditions changed since the Zoning Ordinance was adopted that justifies the amendment? Yes, adoption of the city's Master Plan in 2007 changed the recommended use of these parcels as being appropriate for medium density residential development.

Will the amendment result in unlawful exclusionary zoning? No. The rezoning would allow the permitted uses of the requested zoning classification. Will the amendment set an inappropriate precedent? No. The area is planned for medium density residential and, with property site planning, has sufficient infrastructure to accommodate this development. Is the proposed zoning consistent with the zoning classification of the surrounding land? No. The surrounding land is zoned for commercial and limited research and manufacturing. The zoning classification in Homer Township is industrial.

Is the proposed zoning consistent with the future land use designation of the surrounding land in the city's Master Plan? Yes, the future land use plan shows this area and all surrounding areas to the south as Medium Density Residential. The surrounding land uses are commercial to the north and vacant or sparsely populated single family residential to the south and west. There are no apparent trends in land development in this area that would be inconsistent with multiple family dwellings.

Staff recommends approval of the rezoning petition as presented given the interpretation of the Future Land Use Plan. A residential zoning classification and use are more consistent with the area and Master Plan than the current Industrial zoning classification.

This is the public hearing and first presentation of this petition. It is anticipated that the Planning Commission will hold deliberations and make a decision on this rezoning petition at their next meeting on September 28, 2010.

Ron Schauman, Freeland, Michigan, is the petitioner. They have approximately 250 rental units right now in Saginaw Township, Tittabawassee Township, and the City of Auburn. They have switched to more individual units. The units have approximately 1300 square feet for 2-bedroom units, up to a 1740 square foot with a master bedroom on the main floor and two bedrooms upstairs. They are in the process of developing

more in Saginaw Township yet this fall. They are planning on between 80 and 84 units here. That is less than the 9 units per acre, as described in the Zoning Ordinance.

There were no public comments either in favor of or in opposition to this petition. The public hearing was closed.

- c. **Zoning Text Amendment No. 152, initiated by the City of Midland**, to address medical marijuana in the City of Midland Zoning Ordinance.

Mr. Baker stated Gerald Ladwig, the city's Police Chief, will give the bulk of the presentation. The public act that brings us here this evening was adopted by the state's electorate in 2008. There were concerns brought forward in 2009 regarding how to administer the new law. For areas where the law does not address specific activities, how will communities regulate the different aspects of the new law?

Jerry Ladwig, Chief of Police, made the presentation regarding Medical Marijuana Zoning. This is strictly a zoning issue. The medical marijuana statute was voted into law in November 2008. The Michigan Department of Community Health was to issue regulations by April 1, 2009 to implement provisions for registering legal users of medical marijuana. The Michigan Medical Marijuana Act does not address dispensaries within the Act. This has caused municipalities around the state to address the issue. Most have issued a moratorium, while 11 communities have acted to prohibit dispensaries. MCL 333.26426(4) (b) states that a primary caregiver may only assist a qualified patient that is connected to them through the department's registration process. The law states that each registered patient may have only one primary caregiver. Each primary caregiver may have no more than five registered patients. Each patient may have 2.5 ounces of marijuana or 12 plants. Each caregiver may have more than 2.5 ounces of marijuana or 12 plants for each patient for which they are a caregiver.

The law in Michigan does not address dispensaries or offer any regulatory system for them. The Michigan Department of Community Health interprets the law as saying that it is illegal to operate a marijuana dispensary. The Midland Police Department recognizes State Law as it pertains to registered patients and registered caregivers. The use of Medical Marijuana is permitted under State Law for these persons. There is currently no provision in Michigan Law for Medical Marijuana Dispensaries. Without such a provision, there is no way to ensure that the substance is being handled properly. The City of Livonia ordinance has made it clear what is not acceptable and has been used statewide as a model. It is staff's opinion that it is in the best interest of the City of Midland to enact a similar amendment to the Zoning Ordinance.

Mr. Baker stated the first place in the Zoning Ordinance that would need to be changed would be the definitions section. There have been three models that have circulated throughout the State of Michigan. The "do nothing" model, where cities have chosen to do nothing about this law. There is the model where they are made "home occupations" and provision for them is made in commercial districts. Proposed ordinance language was presented.

The city's Master Plan goals include protecting the long term stability of existing, quality neighborhoods, encouraging integration or mixture of appropriate uses to create great places, promote a healthy, walkable community. The Michigan Medical Marihuana Act was passed following the adoption of the Zoning Ordinance, necessitating this amendment. There was no need to address the use of medical marihuana prior to the enactment of this law. The amendment is intended to clarify the unaddressed subjects of distribution and use under the state statute and to recognize that as an illegal substance under federal law, no person will be permitted to operate a marihuana dispensary or co-op within the City of Midland.

Jerry Ladwig stated the city has not spoken with the county law enforcement. The city has spoken with the County Prosecutor's Office and they are in complete support of this ordinance. Mr. Baker stated that there are bills being introduced that will attempt to amend the act so there is a state-wide model crafted and it isn't left up to each individual community. The law is completely silent as to how the end user obtains the marihuana. If a pharmacy or dispensary would have the marihuana, they would most certainly lose their license, according to Chief Ladwig. The distribution of the controlled substance should be regulated by the ordinance, along with other land uses within the community.

Only one public comment has been received in favor of this request by Dr. Donald Carlsen. Two representatives were in attendance from Lee Township Planning Commission. They are in the process of re-doing their ordinance and Master Plan and they are here to listen to the discussion. The public hearing was closed.

**4. Old Business**

None

**5. Public Comments (unrelated to items on the agenda)**

None

**6. New Business**

a. 2011 Planning Commission meeting schedule

In keeping with current practice, the 2011 calendar of Planning Commission meetings was presented. Each Board and Commission of the city is going through the process of approving their meeting times for the 2011 calendar year. Mrs. Hanna moved the adoption of the 2011 calendar. Meetings would be conducted on the second and fourth Tuesday of the month at 7:00 p.m. Mr. Pnacek seconded the motion. Motion passed unanimously.

**7. Communications**

The Michigan Planner was distributed in the packets, to include information on the upcoming conference.

8. **Report of the Chairperson**

None

9. **Report of the Planning Director**

Mr. Baker reported that Broadhead Estates No. 3 final plat was approved by City Council at its meeting on September 13th. Infrastructure is intended to be in place yet this fall. In addition, Zoning Text Amendment No. 151, regarding the allowance of mini-pigs as a conditional use was acted upon by council. The City Council voted 5-0 in favor of the Planning Commission's recommendation of denial of the proposed amendment.

A letter of resignation has been received from Commissioner King, effective subsequent to the first meeting in October, due to work conflicts. He is involved with another local government in the area and they have meetings on the fourth Tuesday of the month. Given the pending vacancy, there is a process that the city goes through to fill vacancies on Boards and Commissions. Those applications will be reviewed and interviewed by City Council. That process will convene over the next few months.

10. **Adjourn**

Adjournment at 8:34 p.m. was unanimously approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Keith Baker". The signature is fluid and cursive, with the first name "Keith" being more prominent and larger than the last name "Baker".

Keith Baker, AICP, CFM  
Director of Planning & Community Development

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